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**UNITED STATES MARINE CORPS**

U.S. MARINE CORPS FORCES CENTRAL COMMAND
7115 SOUTH BOUNDARY BOULEVARD
MACDILL AIR FORCE BASE, FLORIDA 33621-5101

IN REPLY REFER TO:
5830
SJA
9 Aug 10

From: Commander, U.S. Marine Corps Forces, Central Command
To: (b)(3) 10 USC 130b, (b)(6), (b)(7)c, USMC

Subj: COMMAND INVESTIGATION INTO THE ALLEGED LAW OF ARMED CONFLICT VIOLATIONS OF 3RD BATTALION, 8TH MARINES, RAMADI, IRAQ DURING 2006

Ref: (a) JAGMAN, Chapter II
(b) DoDD 2311.01E DoD Law of War Program

1. Per the references, you are appointed to conduct a command investigation into the facts and circumstances surrounding the allegation that Marines from 3rd Battalion, 8th Marine Regiment, on various occasions, violated the Law of Armed Conflict during their deployment to Ramadi, Iraq in 2006.

2. Investigate the circumstances of this incident and provide findings of fact, opinions and recommendations in letter form by 30 September 2010, unless an extension of time is granted. If you have not previously done so, read the references in their entirety before beginning your investigation. Include in your investigation any recommendations for appropriate administrative or disciplinary action.

3. At a minimum, you should specifically review statements made by (b)(3) 10 USC 130b, (b)(6), (b)(7)c USMC and Naval Criminal Investigative Service Reports of Investigation pertaining to these allegations.

4. Please contact (b)(3) 10 USC 130b, (b)(6), (b)(7)c Office of the Staff Judge Advocate, prior to beginning your inquiry. He can be reached at (b)(3) 10 USC 130b, (b)(6), (b)(7)c or by email at (b)(3) 10 USC 130b, (b)(6), (b)(7)c.

(b)(3) 10 USC 130b, (b)(6), (b)(7)c
Chief of Staff

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U.S. MARINE CORPS FORCES CENTRAL COMMAND
7115 SOUTH BOUNDARY BOULEVARD
MACDILL AIR FORCE BASE, FLORIDA 33621-5101

5830
SJA
31 Dec 10

From: (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) [redacted] USMC
To: Commander, U.S Marine Corps Forces, Central Command

Subj: COMMAND INVESTIGATION REGARDING ALLEGATIONS OF LAW OF ARMED CONFLICT VIOLATIONS BY MEMBERS OF 3RD BN, 8TH MARINES IN RAMADI, IRAQ FROM MARCH-SEPTEMBER 2006

Ref: (a) JAGMAN, Chapter II
(b) MARCENT Preliminary Inquiry dtd 20Aug09
(c) NCIS Report of Investigation CALE-0428 dtd 07Jul09
(d) NCIS Report of Investigation NEPN-0014 dtd 14Oct09
(e) NCIS Report of Investigation CALE-0428 dtd 25May10
(f) NCIS Report of Investigation CALE-0428 dtd 24Aug10
(g) NCIS Report of Investigation CALE-0428 dtd 15Sep10
(h) NCIS Report of Investigation CALE-0428 dtd 20Oct10 (contains (b) (6), (b)(3) U.SC. 130b, (b) (7)(C) 3Jun08 IGMC interview)
(i) NCIS Report of Investigation CALE-0428 dtd 24Nov10

Encl: (1) Appointing Order dtd 9Aug10
(2) Anonymous E-mail dtd 3Nov07
(3) (b) (6), (b)(3) U.SC. 130b, (b) (7)(C) statement dtd 4Dec07
(4) Disc with (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) and 3/8 internet video posts
(5) (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) [redacted] IGMC complaint form (May 08)
(6) Statement of (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) USMC (Ret) 20Aug10
(7) Statement of (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) USMC (Ret) 26Aug10
(8) Statement of (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) USMC 10Sep10
(9) E-Mail from II MEF SJA to MARCENT SJA dtd 1Apr09
(10) E-Mail chain of Claudia FELDMAN (Houston Chronicle) HQMC, II MEF and MARCENT dtd 17Apr08
(11) COMUSMARCENT ltr to Director NCIS dtd 27Jul10
(12) NCIS (b)(3) U.SC. 130b, (b) (6), (b) (7)( e-mail dtd 18Sep09
(13) COMUSMARCENT ltr to Dir NCIS dtd 27Jul10
(14) Dir NCIS ltr to COMUSMARCENT dtd 13Aug10
(15) (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) statement dtd 9Dec10
(16) (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) statement dtd 25Aug10
(17) (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) statement dtd 20Aug10
(18) NCIS e-mail to MARCENT ASJA dtd 7Jul09
(19) (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) e-mail to MARCENT ASJA dtd 28May09
(20) (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) 27 page statement to NCIS dtd 24Aug10

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(21) Statement of [redacted] dtd 24Aug10
(22) IGMC Interview of [redacted] dtd 3Jun08
(23) Interview with [redacted] dtd 9Nov10
(24) Excerpt from MCLL interview of [redacted] dtd 14Nov06
(25) Disc with [redacted] OMPF
(26) Disc with [redacted] OMPF

## Preliminary Statement

1. This command investigation was ordered to document the efforts of the Naval Criminal Investigative Service (NCIS) and the Inspector General of the Marine Corps (IGMC) to investigate allegations made in an anonymous e-mail received by the IGMC on or about 3 November 2007 that numerous violations of the Law of Armed Conflict (LOAC) were committed by members of 3rd Battalion 8th Marines during their deployment to Ramadi, Iraq from March to September 2006. Similar allegations were made by the [redacted] during his December 2007 interview with NCIS. Also, on or about 14 March 2008 [redacted] in Kilo Company 3/8 appeared at [redacted] and gave statements that he committed LOAC violations while deployed to Ramadi in 2006. [redacted] statements along with photos and videos he presented at [redacted] have been posted to various internet sites including YouTube.com, DemocracyNow.org and VoicesEducation.org (Enc 2, 3, 4)

2. [redacted] also alleges that certain awards, particularly the Purple Heart Medal and the Bronze Star Medal with Combat "V" awarded to the [redacted] of Company K, 3/8, [redacted] were awarded based upon fraudulent information. (Ref h, Enc 5)

3. NCIS initiated two separate investigations involving the actions of 3/8 while deployed to Ramadi, Iraq during 2006. The first (CALE-0428) was initiated on 20Nov07 as result of the 3Nov07 anonymous e-mail and focused upon the alleged April 2006 stabbing of an Iraqi male by [redacted]. The other allegations contained in the 3Nov07 e-mail were not investigated until August 2010 following COMUSMARCENT's 27Jul10 letter to the Director, NCIS. The second NCIS investigation (NEPN-0014) was opened in May 2008 and centered upon the allegations made by [redacted]. (Ref c,d,e,f,g,h,i)

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4. The IGMC initiated an investigation in May 2008 following their receipt of (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) complaint that fraudulent awards were submitted by 3/8 for their 2006 deployment to Iraq. (Ref h, Enc 5)

5. NCIS is continuing to investigate the allegations that members of 3/8 committed LOAC violations while deployed to Ramadi, Iraq during 2006. As of 31 December 2010, the only identified witness who has yet to be interviewed is (b)(3) U.SC. 130b, (b) (6), (b) (7)(C), the former (b)(3) U.SC. 130b, (b) (6), (b) (7)(C). Follow up interviews with other key witnesses including (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) are ongoing. (Ref c,e,f,g,h,i)

## Findings of Fact

1. On or about 17 March 2006 3rd Battalion 8th Marines assumed responsibility for an Area of Operations comprising the majority of the city of Ramadi, Iraq. The Battalion Headquarters and Weapons Company were located at Hurricane Point, Company I was located at OP VA, Company K was located at the Ramadi Government Center and OP Horea and Company L was located at the "Snakepit". 3/8 was commanded by (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) Company I by (b)(3) U.SC. 130b, (b) (6), (b) (7)(C), Company K by (b)(3) U.SC. 130b, (b) (6), (b) (7)(C), Company L by (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) Weapons Company by (b)(3) U.SC. 130b, (b) (6), (b) (7)(C). Principal Staff Officers included; Executive Officer (b)(3) U.SC. 130b, (b) (6), (b) (7)(C), S-2 (b)(3) U.SC. 130b, (b) (6), (b) (7)(C), S-3 (b)(3) U.SC. 130b, (b) (6), (b) (7)(C), Battalion Gunner (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) and Staff Judge Advocate (b)(3) U.SC. 130b, (b) (6), (b) (7)(C). These billet assignments remained in effect throughout 3/8's 2006 deployment to Iraq. (Ref c,e,f,h)

2. From October 2006 to January 2007, the Marine Corps Center for Lessons Learned (MCLL) interviewed approximately twenty senior officers and Staff Non-commissioned officers from 3/8. The interviews were conducted by (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) USMC (Ret) and (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) USMC (Ret). During the course of these interviews, numerous members of 3/8 desired to make comments "off the record" regarding actions that occurred during their deployment. NCIS interviewed (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) on 20Aug2010 and 26Aug2010 respectively. (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) stated to NCIS that during these "off the record" conversations, numerous Marines mentioned command climate problems within 3/8 during its 2006 deployment. In particular: that (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) and (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) did not get along; that (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) "failed to control" his company commanders especially (b)(3) U.SC. 130b, (b) (6), (b) (7)(C), that (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) did not "reign in" (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) tendency to overuse kinetics; and that (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) marginalized the (b) (6), (b)(3) U.SC. 130b (b)(3) U.SC. 130b, (b and (b)(3) U.SC. 130b, (b) (6), (b) (7)(C). (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) also states that he





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heard no first-hand accounts of LOAC violations during his interviews, only second and third-hand rumors. [redacted] counseled Marines with concerns about possible LOAC violations that the MCLL process was not the correct venue to address these concerns and that they should contact higher headquarters through the Request Mast or IGMC chains. (Enc 6,7)

3. On 14 November 2006, [redacted] provided a 58 page interview to the Marine Corps Lessons Learned representative [redacted]. During this interview, [redacted] stated that "Kilo had the Government Center and all they did was shoot bad guys". (Enc 24)

4. On 3 November 2007 the IGMC received an anonymous e-mail from an individual purporting that he had been a member of 3/8 during the Ramadi deployment and alleging that LOAC violations including: 1) that during April 2006 [redacted] bayoneted an Iraqi male in the torso without provocation 2) that Company K would fire at any Iraqi that "looked around the corner at them" during patrols 3)that Company K would destroy the personal property of Iraqis during searches 4) that when Company K took fire from an individual wearing a particular color shirt, they would fire at all individuals wearing that color of shirt for the remainder of the day 5) that Company K during enemy contact would shoot at "anything that moved" 6) that [redacted] submitted false reports of enemy contact in order to justify the use of Close Air Support 7)that [redacted] constantly allowed indiscriminate shooting into the city. The author of this e-mail does not state that he was a member of Company K and fails to differentiate between events he witnessed and those that he "heard of". [redacted] has denied sending this anonymous e-mail.(Enc 2)

5. During November 2007 while [redacted] approached [redacted]. [redacted] informed [redacted] of possible LOAC violations during 3/8's deployment to Ramadi and asked for legal guidance on his duty to report these alleged violations. [redacted] encouraged [redacted] to contact NCIS or the Inspector General of the Marine Corps. (Enc 8)

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6. On 20 Nov 2007 NCIS opened an investigation into alleged LOAC violations by 3/8 as a result of the IGMC's receipt of the 3 Nov 2007 anonymous e-mail. (Ref c)

7. On 3 December 2007 [redacted] was interviewed by NCIS and on 4 December 2007 he provided a voluntary statement alleging numerous "Law of War" violations were committed by the [redacted] during the Battalion's 2006 deployment to Ramadi. Specifically, [redacted] made the following allegations: 1)that during April 2006 [redacted] bayoneted an Iraqi male in the torso without provocation and that medical assistance was not offered 2) that [redacted] falsely reported enemy actions in order to justify the employment of Close Air Support (CAS) and Indirect Fire Support 3)that [redacted] destroyed private Iraqi property without cause 4)that [redacted] fired or authorized the firing of various weapons systems without cause or authorization. [redacted] stated that he had no first-hand knowledge of these violations, that he had heard of them via conversations with other members of 3/8 and through reports submitted by Company K. (Enc 3)

8. On 29 February 2008 NCIS closed their investigation of alleged 3/8 LOAC violations after only interviewing [redacted] and the 3/8 [redacted]. This initial NCIS investigation only examined the allegation that [redacted] stabbed an Iraqi male during April 2006. None of the other alleged LOAC violations raised by [redacted] or in the 3 Nov 2007 anonymous e-mail were addressed.(Ref c)

9. During March 2008 [redacted] contacted [redacted] at the Office of the Inspector General, US Marine Corps to discuss filing a formal complaint regarding alleged Law of Armed Conflict violations and Award irregularities associated with 3/8's deployment to Ramadi. [redacted] knew [redacted] through his [redacted] USMC (Ret). In late April 2008 [redacted] forwarded a written complaint directly to [redacted] rather than through the IGMC's complaint website. (Enc 3,5)

10. The IGMC reviewed [redacted] complaint and decided that it was bifurcated between alleged LOAC violations and administrative irregularities involving awards. The IGMC initiated an investigation into the administrative complaints



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and requested NCIS investigate the alleged LOAC violations. The IGMC found no evidence of fraudulent awards as alleged by [redacted] and on 20 March 2008 closed their investigation. The IGMC notified [redacted] of the negative results of their investigation. (Enc 5,9, Ref h)

11. From 13-16 March 2008 the anti-war gathering "Winter Soldier 2008 Iraq and Afghanistan" was held at the National Labor College in Silver Spring, Maryland. A [redacted] was [redacted] and a member of Company K 3/8 during its deployment to Ramadi in 2006. At [redacted] included statements that he killed Iraqi civilians without cause, fired upon mosques without authority, unnecessarily destroyed Iraqi personal property and that his company commander personally congratulated each Marine after his first kill. (Enc 4)

12. On 17 April 2008 Ms. Claudia FELDMAN, a reporter with the Houston Chronicle sent an e-mail to [redacted] (HQMC PAO Division) stating that she had attended "Winter Soldier 2008" and questioned if the Marine Corps had any plans to investigate the [redacted]. [redacted] forwarded this inquiry to the HQMC SJA Division where it was subsequently forwarded to the II MEF SJA and finally to the MARCENT ASJA [redacted] On 23 April 2008, [redacted] replied to the HQMC, II MEF and 2d MARDIV SJA's that the MARCENT database (including MNF-W data) showed no record of an investigation into the events alleged by [redacted]. (Enc 10)

13. On 21 May 2008 NCIS opened an investigation into the allegations made by [redacted]. On 24 Jun 2008 NCIS received a legal opinion from [redacted] that [redacted] could not be recalled to active duty for prosecution under the UCMJ for actions he may have committed in Iraq. On or about 28 Aug 2008 NCIS began interviewing current and former members of Company K 3/8 to investigate [redacted] allegations. Approximately 20 Marines were interviewed by NCIS during September and October 2008. A review of these interviews shows no first hand corroboration of [redacted] allegations and that the videos shown by [redacted] as "evidence" at [redacted] were either taken out of context or were not videos of K Co 3/8 in Ramadi. Only one Marine interviewed ([redacted]) acknowledged hearing a rumor that [redacted] had authorized a four day pass for the first Marine to kill an Iraqi by stabbing. [redacted] allegation that [redacted] congratulated each Marine after their first "kill" was denied by



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each Company K Marine interviewed. Numerous Company K Marines stated that (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) congratulated Marines on surviving firefights by giving them a "pat on the back" and that he was an involved, competent and caring leader who required Company K to follow the Rules of Engagement. (Ref d)

14. As a result of their interviews of Company K 3/8 Marines conducted during September- October 2008, NCIS identified several other former members of Company K 3/8 that they believed should be interviewed. These interviews were conducted from December 2008 to April 2009 and failed to corroborate (b)(3) U.SC. allegations. (Ref d)

15. On 9 Sep 2009 NCIS interviewed (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) in Burlington, Vermont. During this interview, (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) recanted many of the comments he made during (b) (6), (b) (7)(C) and stated that he now has strong anti-war feelings and is having difficulties dealing with the tragedies that he witnessed while in Iraq. (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) further stated he does not believe any of his actions or any actions he witnessed while a member of Company K 3/8 were in violation of the Law of Armed Conflict or the Rules of Engagement. (Ref d)

16. On 14 Oct 2009 the Assistant US Attorney for the District of Vermont sent a letter to (b) (6), (b) (7)(C), (b)(3) U.S.C. 130b stating that based upon the results of NCIS's investigation there was no basis to prosecute (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) for any alleged crimes committed while a member of 3/8 in Iraq. The only evidence against (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) was his own statements which he subsequently recanted. Accordingly, on 14 Oct 2009 NCIS closed their investigation. (Ref d)

17. On 17 November 2008 NCIS re-opened their LOAC (Stabbing) investigation that had originally been closed on 29 Feb 2008. From December 2008 to March 2009 Additional eyewitnesses (b)(3) U.SC. 130b, (b) ) and the accused ((b)(3) U.SC. 130b, (b) (6), (b) (7)(C)) were interviewed and an additional statement was taken from (b)(3) U.SC. . The consensus of these statements was that the Iraqi male repeatedly tried to grab (b)(3) U.SC. 130b, (b) (6), (b) (7)(C) pistol and that (b)(3) U.SC. 130b actions to slash the Iraqi with his bayonet was justified. On 6 July 2009 NCIS again closed this investigation based upon a response from the 3/8 Executive Officer (b)(3) U.SC. 130b, (b) (6), (b) that the command did not intend to prosecute. No investigation of the other alleged LOAC violations (destruction of personal property, indiscriminant firing, etc.) by 3/8 was conducted. (Ref c, Enc 18)

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18. On 27 July 2009 USMARCENT completed a Preliminary Inquiry that found many of the LOAC allegations made by [redacted] remained to be investigated and recommended that an appropriate investigatory process be initiated to thoroughly address all the allegations raised. (Ref b)

19. On 20 August 2009 COMUSMARCENT sent a letter to the Director, Naval Criminal Investigative Service requesting a complete investigation of all allegations made by [redacted] and in the anonymous e-mail of 3 November 2007. A copy of the 27 July 2009 Preliminary Inquiry was included with this letter. (Enc 11)

20. On 18 Sep 2009 NCIS ([redacted]) sent an e-mail to [redacted] stating that NCIS was not inclined to re-open the case due to a lack of eyewitnesses and because air strikes/excessive use of force would be ROE violations and are not really within NCIS's jurisdiction. NCIS was formulating a formal response to COMUSMARCENT's request of 20 August 2009. (Enc 12)

21. On 20 April 2010 [redacted] was interviewed by NCIS in [redacted] where he was stationed as a member of the [redacted]. [redacted] provided a 27 page statement that reiterated the allegations he made in his previous statements to NCIS on 4 December 2007 and to the IGMC on 3 June 2008. [redacted] provided the names of additional witnesses and made additional allegations against certain officers. Specifically, [redacted] made numerous allegations against [redacted] for the first time, including that [redacted] "welcomed" detainees tot eh 3/8 holding facility by physically beating them, "unraveled" as the [redacted] and threatened to physically assault [redacted]. [redacted] also makes numerous attacks on [redacted] character and describes a climate of hostility and strife within 3/8.(Ref e, Enc 21)

22. On 24 September 2010 NCIS interviewed [redacted], former corporal USMC who served as the 3/8 Detention Facility NCOIC during the 2006 deployment to Ramadi. [redacted] stated that at no time did he ever see [redacted] or [redacted] abuse detainees. [redacted] also stated that it was the Iraqi Governor's Personal Security Detachment that abused the prisoners as described by [redacted] in his 27 page statement to NCIS on 20 April 2010 and that this abuse was reported and "statements taken". (Enc 21)

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23. On 27 July 2010 COMUSMARCENT sent a second letter to the Director, NCIS requesting that the 3/8 LOAC case be re-opened. (Enc 13)

24. 9 August 2010 COMUSMARCENT appointed [redacted] to conduct a Command Investigation into the facts and circumstances surrounding the allegation that Marines from the 3rd Battalion 8th Marines violated the Law of Armed Conflict during their deployment to Ramadi, Iraq in 2006. (Enc 1)

25. On 13 August 2010 the Director NCIS informed COMUSMARCENT that the Carolinas NCIS Field Office re-opened the 3/8 LOAC case effective 6 August 2010. Interim reports will be forwarded to MARCENT on a monthly basis. (Enc 14)

26. On 16 November 2010 [redacted] met with [redacted] at the NCIS Carolinas Field Office aboard Camp Lejeune. [redacted] provided [redacted] with a copy of the 20 October 2010 Report of Investigation and informed him that NCIS did not anticipate concluding their investigation until the end of January 2011, at the earliest. (Ref h)

27. During October and November 2010, [redacted] conducted a review of the MNF-W Command Journal and Significant Events Log archived on classified servers at Camp Lejeune. Over 1,200 entries were made by 3/8 during their deployment to Ramadi from March to September 2006. Numerous reports of complex attacks upon the Ramadi Government Center were made by Company K and forwarded to MNF-W by 3/8. [redacted] was able to locate fourteen Close Air Support missions (the AirO reported 17 in his MCLL interview) the majority of which were run in support of Company K. These classified records indicate that Company K was attacked on a frequent basis (sometimes multiple attacks on a single day). At times Company K called for supporting fires, at other times they responded with their organic weapons and on other occasions they did not respond at all, because they could not positively identify the shooter(s). (Enc 15)

28. On 9 November 2010 [redacted] interviewed [redacted] at the Gray Library aboard MCCDC Quantico. [redacted] did not make any additional allegations or provide the names of any additional witness beyond those contained in his previous statements. The interview focused on the status of the investigation, command relationships between 3/8, the Army BCT and MNF-W and the command climate of 3/8 during its deployment to Ramadi. [redacted] expressed surprise that NCIS was



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interviewing witnesses other than those whom he had named. [redacted] was also concerned that NCIS was not keeping him apprised of the status of their investigation. (Enc 22)

29. Several of the officers within 3/8 provided statements to NCIS describing the poor working relationships that existed between the Battalion's senior officers. The Battalion [redacted] stated "the interpersonal dynamic that existed at the field grade level in the battalion was unique and contentious at times". [redacted] also describes a "definite caustic relationship" between [redacted] and [redacted]. The [redacted] stated "I felt that [redacted] was incompetent in his job duties, which is why I approached the [redacted] USMC and told him that [redacted] needed to be relieved". (Enc 16, 17)

## OPINIONS

1. My review of the MNF-W Command Journal and Significant Events Log from March to September 2006 indicates that Company K 3/8 appeared to respond in an appropriate manner to enemy attacks. Contrary to the statement made by [redacted] in his MCLL interview "all they did was shoot bad guys", Company K did not always respond to enemy actions kinetically. They frequently exercised restraint when attacked and did not return fire unless they could positively identify a target. None of the entries in the MNF-W classified records support any allegation of LOAC violations by Company K.

2. The personal and professional relationships between the senior officers of 3/8 during their 2006 deployment to Iraq were extremely poor. [redacted] had significantly less interaction with [redacted] than one would expect a [redacted] to have while engaged in combat. [redacted] strained relationship with [redacted] pre-dated the deployment and his relationship with the [redacted] deteriorated over time to the point where they were no longer on speaking terms at the end of the deployment. The [redacted] and the [redacted] were reportedly not on speaking terms despite occupying adjacent battlespace. The level of internal conflict described in the statements made by numerous officers and SNCO's describes a breakdown in communications and an atmosphere of distrust within the unit. This adverse climate facilitated rumors and accusations of

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improper and/or illegal acts that the Battalion leadership did not take timely and appropriate actions to prove or disprove.

3. A Preliminary Inquiry should have been conducted into [redacted] alleged stabbing of an Iraqi male in April 2006. The rumors surrounding this incident were allowed to circulate for the remainder of the deployment and adversely impacted the command climate of 3/8 in general and Company K in particular.

4. [redacted] already strained relationship with [redacted] caused him to question Company K's reports of enemy actions and friendly activities at the Ramadi Government Center. [redacted] was frustrated in his minimally successful attempts to get additional information from Company K. He developed a perception that the [redacted] were not adequately controlling [redacted] and Company K's actions. As a result, [redacted] evaluated [redacted] and Company K's actions in the worse possible light and developed a scenario where he honestly believed that violations of the Law of Armed Conflict might have been committed by Company K.

5. The efforts to investigate the allegations made in the 3 Nov 2007 anonymous e-mail and the statements made by [redacted] should have been combined into a single investigation.

6. NCIS should not have closed their investigation of the 3 Nov 2007 e-mail without investigating all the alleged Law of Armed Conflict violations, not just the April 2006 stabbing incident. NCIS should not have based their decision to close their investigation on the recommendation of a junior officer ([redacted] who was serving as the [redacted].

7. That despite the delays and parallel track efforts involved in investigating the allegations of Law of Armed Conflict Violations against 3/8, a full and complete investigation has been made and no credible evidence of violations has been found.

## RECOMMENDATIONS

1. That unless credible evidence of Law of Armed Conflict violations is discovered during NCIS's remaining interviews, that no further action be taken be taken regarding this matter.



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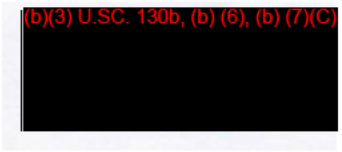


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**UNITED STATES MARINE CORPS**

U.S. Marine Corps Forces, Central Command
7115 South Boundary Blvd.
MacDill AFB, FL 33621-5101

| | |
|---|---|
| 1. DATE: | 28 Nov 11 09:36 |
| 3. SUBJECT: | **NCIS INVESTIGATION INTO ALLEGED LAW OF WAR VIOLATIONS,** |

2. OPERATION CODE
X ORIGINATOR OF ROUTE SHEET
A APPROPRIATE ACTION
B SIGNATURE
C CONCURRENCE
D INFORMATION
E RETENTION
F RETURN TO
G COMMENT(S)

| 9. NATURE OF ACTION REQUIRED | ORIGINATOR INITIALS | DUE DATE |
|---|---|---|
| Routine | (b)(3) 10 USC 130b, (b)(6), (b)(7)(c) | 28 Dec 11 |

| 4. RTNG | 5. OPR CODE | 6. ADDRESSEES | 7. DATE IN | 7. DATE OUT | 8. INITIALS CONCUR | 8. INITIALS NON CONCUR |
|---|---|---|---|---|---|---|
| 8 | B | COMMANDER | 12/06/11 09:45 | | | |
| 7 | A | CHIEF OF STAFF | 12/01/11 15:39 | 12/01/11 15:40 | [redacted] | |
| 4 | A | STAFF SECRETARY | 11/28/11 11:36 | 11/28/11 11:36 | | |
| 6 | A | STAFF SECRETARY | 11/30/11 07:43 | 11/30/11 07:44 | | |
| 3 | A | SJA | 11/28/11 10:06 | 11/28/11 10:25 | (b)(3) 10 USC 130b, (b)(6), (b)(7)(c) | |
| 2 | A | SJA DEPUTY | 11/28/11 10:05 | 11/28/11 10:05 | | |
| 5 | A | SJA DEPUTY | 11/29/11 17:27 | 11/29/11 17:27 | | |
| 1 | A | SJA ASSISTANT | 11/28/11 09:45 | 11/28/11 09:46 | | |

10. ACTION OFFICER (NAME,GRADE,SECTION,EXT)
(b)(3) 10 USC 130b, (b)(6), (b)(7)(c)

11. REMARKS AND SIGNATURE:

PURPOSE: 1. To obtain Commander's signature on letter to Director, NCIS indicating that since the NCIS investigation has not produced evidence of substantiated misconduct by members of 3/8, COMUSMARCENT considers the matter closed.

2. To obtain the Commander's signature on the First Endorsement approving (b)(3) 10 USC 130b, (b)(6), (b)(7)(c) investigation and closing this matter.

BACKGROUND: Gen Helland asked Director, NCIS to reopen and continue this investigation in August, 2009. Gen Dunford repeated the request in July, 2010. Since that time, NCIS has interviewed all the principals, in addition to numerous other interviews. Since the fall of 2010, NCIS has provided MARCENT OSJA approximately 13 interim Reports of Investigation (ROI) (+/- one per month).

DISCUSSION: The ROIs contain 105 exhibits, mostly of interviews of relevant members of 3/8 and a number of personnel who were not members of 3/8 but would have been in a position to assess the credibility of war crime allegations, including at least two General Officers. The overwhelming weight of all the evidence supports no substantiated misconduct, but does reveal the effects of operational stress, the fog of war, hearsay, rumor, and personality conflicts among some officers of 3/8.

RECOMMENDATION: 1. The Commander sign letter to Director, NCIS, informing him that COMUSMARCENT does not intend on pursuing any legal action, and that he considers this matter closed.

2. The the Commander sign the First Endorsement approving (b)(3) 10 USC 130b, (b)(6), (b)(7)(c) investigation and closing this matter.

Tab A is an information paper intended to provide background regarding the subject investigation.

Tab B is the command investigation endorsement.

Tab C is letter to Director, NCIS from COMUSMARCENT considering the matter closed, routed for signature of COMUSMARCENT.

Related Tasker Number:

Approved for Release

VER 1-08

UNCLASSIFIED

| FILE NUMBER: | DATE RECEIVED: |
|---|---|
| 20111128-Doc-003 | 28 Nov 11 09:36 |

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SJA
21 Nov 2011

INFORMATION PAPER

Subj: LEGAL REVIEW OF NCIS INVESTIGATION AND JAGMAN INVESTIGATION INTO THE ALLEGATIONS OF LAW OF WAR VIOLATIONS BY MEMBERS OF 3/8 IN RAMADI IN 2006

1. Purpose. To inform the Commander about the subject investigations.

2. Background. In March 2009, an inquiry by the II MEF SJA prompted the MARCENT OSJA to establish email and telephonic communication with the primary complainant, (b)(3) 10 USC 130b, (b)(6), (b)(7)(c), regarding 3/8 and alleged war crimes in Ramadi in 2006.

a. (b)(3) 10 USC 130b, (b)(6), (b)(7)(c) made allegations of misconduct against three officers: (b)(3) 10 USC 130b, (b)(6), (b)(7)(c) (b)(3) 10 USC 130b, (b)(6), (b)(7)(c). The misconduct ranges from assaulting a detainee to falsifying records for awards, falsifying operational information to justify air strikes and artillery, indiscriminately firing weapons into the city of Ramadi, gratuitously damaging personal property of Iraqis, and encouraging Marines to commit war crimes through indiscriminate killings. He indirectly accuses the (b)(3) 10 USC 130b, (b)(6), (b)(7)(c) (b)(3) 10 USC 130b, (b)(6), (b)(7)(c) of implicitly and overtly encouraging this misconduct, failing to report the misconduct, and protecting the alleged wrong-doers.

b. (b)(3) 10 USC 130b, (b)(6), (b)(7)(c) made these complaints in writing in several NCIS statements and in an Inspector General of the Marine Corps (IGMC) complaint. He also identified 17 witnesses (including himself, (b)(3) 10 USC 130b, (b)(6), (b)(7)(c)) who can substantiate the misconduct.

c. In November 2007, NCIS conducted an investigation into one incident of alleged misconduct by (b)(3) 10 USC 130b, (b)(6), (b)(7)(c) the stabbing of an Iraqi detainee during a cordon and search. NCIS interviewed a few witnesses and closed the case as "unsubstantiated." The IGMC briefly looked into the awards falsification matter, and found it was unsubstantiated. IGMC is adamant in their refusal to re-open the case or to consider any issue relating to this matter.

d. In July 2009, COMUSMARCENT convened a Preliminary Inquiry to look into (b)(3) 10 USC 130b, (b)(6), (b)(7)(c) allegations. The Investigating Officer concluded that the matter needed more

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investigation. COMUSMARCENT concurred and in writing, asked the NCIS Director to reopen the investigation to look at (b)(3) 10 USC 130b, (b)(6), (b)(7)(c) specific allegations and witnesses.

e. This renewed effort by NCIS has been thorough, yet has not revealed any "smoking gun" evidence to substantiate (b)(3) 10 USC 130b, (b)(6), (b)(7)(c) allegations. The ROIs contain 105 exhibits, mostly of interviews of relevant members of 3/8 and a number of personnel who were not members of 3/8 but would have been in a position to assess the credibility of war crime allegations, including at least two General Officers. The overwhelming weight of all the evidence supports no substantiated misconduct, but does reveal the effects of operational stress, the fog of war, hearsay, rumor, and personality conflicts among some officers of 3/8.

f. On 9 August, 2010, (b)(3) 10 USC 130b, (b)(6), (b)(7)(c) was assigned as an IO to conduct a Command Investigation into this matter. (b)(3) 10 USC 130b, (b)(6), (b)(7)(c) found nothing that would substantiate misconduct either.

3. Discussion. Between the NCIS investigation and (b)(3) 10 USC 130b, (b)(6), (b)(7)(c) investigation, this matter has been thoroughly investigated and satisfies the requirements of the DoD and USMC Law of War Programs.

4. Recommendation. The Commander sign the First Endorsement approving (b)(3) 10 USC 130b, (b)(6), (b)(7)(c) investigation and closing this matter and sign the memo to Director, NCIS, thanking him for the additional NCIS investigation and informing him that COMUSMARCENT does not intend on pursuing any legal action, and that he considers this matter closed.

Prepared by:

(b)(3) 10 USC 130b, (b)(6), (b)(7)(c)

Approved by:

(b)(3) 10 USC 130b, (b)(6), (b)(7)(c)

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UNITED STATES MARINE CORPS
U.S. MARINE CORPS FORCES CENTRAL COMMAND
7115 SOUTH BOUNDARY BOULEVARD
MACDILL AIR FORCE BASE, FLORIDA 33621-5101

IN REPLY REFER TO:
5830
SJA
15 DEC 2011

FIRST ENDORSEMENT on [redacted] ltr 5830 SJA of 31 Dec 10

From: Commander, U.S. Marine Corps Forces, Central Command
To: File

Subj: COMMAND INVESTIGATION REGARDING ALLEGATIONS OF LAW OF ARMED CONFLICT VIOLATIONS BY MEMBERS OF 3RD BN, 8TH MARINES IN RAMADI, IRAQ FROM MARCH-SEPTEMBER 2006

1. This matter has been reviewed by the MARCENT SJA and it is in substantial compliance with ref (a).

2. The findings, opinions, and recommendations of the Investigating Officer are approved.

3. This investigation concludes that 3/8's tour of duty in Ramadi, Iraq in 2006 was plagued by a less than optimal command climate, personality conflicts among the officers, and the operational stress attendant in that theater of operations.

4. Neither this investigation nor the NCIS investigation into the same matter substantiate any misconduct by any 3/8 personnel, thus, I am directing that no further investigation be completed and this matter be closed.

5. My point of contact for this matter is the MARCENT SJA, [redacted]

[redacted]

T. D. WALDHAUSER

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**UNITED STATES MARINE CORPS**
U.S. MARINE CORPS FORCES CENTRAL COMMAND
7115 SOUTH BOUNDARY BOULEVARD
MACDILL AIR FORCE BASE, FLORIDA 33621-5101

IN REPLY REFER TO:
5830
SJA
15 DEC 2011

From: Commander, U.S. Marine Corps Forces, Central Command
To: Director, Naval Criminal Investigative Service

Subj: INVESTIGATION INTO ALLEGATIONS OF MISCONDUCT BY MEMBERS OF 3rd BATTALION, 8th MARINES (3/8) WHILE DEPLOYED TO RAMADI, IRAQ IN 2006

Ref: (a) 20N0V07-CALE-0428-7XMA

1. At MARCENT request, you re-opened your investigation into this matter and conducted additional interviews. I thank you for your professional and thorough investigation.

2. After reviewing the reference, I have concluded that the NCIS investigation, while thorough and comprehensive, has not substantiated misconduct by members of 3/8 while the Battalion served in Ramadi, Iraq, during the summer of 2006. Accordingly, I consider this matter closed.

3. My POC for this matter is [redacted] (b)(3) 10 USC 130b, (b)(6), (b)(7)(c)

[redacted] (b)(3) 10 USC 130b, (b)(6), (b)(7)(c)

[redacted] (b)(6)

T. D. WALDHAUSER

Copy to:
CLNC NCIS Field Office

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